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**FISCAL IMPACT STATEMENT**

**LS 6585**

**BILL NUMBER:** HB 1385

**NOTE PREPARED:** Dec 27, 2007

**BILL AMENDED:**

**SUBJECT:** Restrictions on Public Benefits to Illegal Aliens.

**FIRST AUTHOR:** Rep. Noe

**FIRST SPONSOR:**

**BILL STATUS:** As Introduced

**FUNDS AFFECTED:** ☒ GENERAL  
☒ DEDICATED  
☒ FEDERAL

**IMPACT:** State & Local

**Summary of Legislation:** This bill prohibits a state agency or political subdivision from providing federal, state, or local public benefits to a person who is not a: (1) United States citizen; or (2) qualified alien under the federal Immigration and Nationality Act and lawfully present in the United States.

It requires that a state agency or a political subdivision must verify the lawful presence in the United States of each individual who: (1) is at least 18 years of age; and (2) applies for federal, state, or local public benefits administered by the agency or political subdivision.

The bill requires a state agency or a political subdivision to: (1) verify the lawful presence of the person by requiring the person to execute a verified affidavit stating that the person is a United States citizen or a qualified alien; (2) verify the lawful presence of certain individuals through the Systematic Alien Verification of Entitlements (SAVE) program; and (3) report errors and significant delays in the SAVE program.

This bill also requires a state agency to provide an annual report regarding the agency's compliance with the verification requirements. The bill also provides that: (1) a state agency or political subdivision may provide variations of the verification of lawful presence requirements; and (2) a person who makes a false, fictitious, or fraudulent statement of representation in an affidavit verifying lawful presence commits a Class D felony.

**Effective Date:** July 1, 2008.

**Explanation of State Expenditures:** *SAVE Program Requirement:* This bill requires state agencies or political subdivisions to utilize the SAVE program to verify if individuals applying for federal, state, and local public assistance are legally present in the United States. Verification with the SAVE program is only required if the individual applying for public benefits signs an affidavit alleging they are a lawfully present

alien. This bill may increase expenditures for state agencies or political subdivisions to the extent that the SAVE program was not utilized before when administering public benefits. The funds and resources required above could be supplied through a variety of sources, including the following: (1) existing staff and resources not currently being used to capacity; (2) existing staff and resources currently being used in another program; (3) authorized, but vacant, staff positions, including those positions that would need to be reclassified; (4) funds that, otherwise, would be reverted; or (5) new appropriations. Ultimately, the source of funds and resources required to satisfy the requirements of this bill will depend upon legislative and administrative actions. [Note: In FY 2007, the Department of Family Resources reverted \$14 M to the General Fund.] Additionally, it is not known how many state agencies and political subdivisions currently utilize the SAVE program.

*Impact on Public Assistance:* Federal, state, or local benefits are defined under the bill as: (a) any grant, contract, loan, professional license, or commercial license appropriated funds of the United States, (b) any retirement, welfare, health, disability, public or assisted housing, postsecondary education, food assistance, unemployment benefit, or any other similar benefit for which payments or assistance are provided to an individual, household, or family eligibility unit by appropriated funds of the United States.

This legislation will impact state and local expenditures on public assistance only to the extent that state and local benefits are currently provided to illegal aliens. Currently, illegal aliens are banned from receiving any federal public benefit except for care and services necessary for the treatment of an emergency medical condition; short-term, noncash, in-kind emergency disaster relief; public health assistance for immunizations; and other services designated in federal law. Additionally, federal law specifies that illegal aliens are not eligible for any state or local public benefit programs that receive federal funding in full or in part.

As of 2005 there were an estimated 55,000 to 85,000 unauthorized aliens in Indiana, and there were an estimated 128,000 authorized immigrants admitted to the U.S. during FY 2006 that claimed Indiana as their state of destination. There have been an additional 55,000 immigrants in the state of Indiana that have been legalized between the years 1997 to 2006. This is the population that would be subjected to the requirements of this bill provided they identify as legal residents or legally present in the U.S. on their signed affidavits.

*Penalty Provision:* Under the bill, a person who makes a false, fictitious, or fraudulent statement of representation in an affidavit executed to verify their legal presence in the United States commits a Class D felony. A Class D felony is punishable by a prison term ranging from 6 months to 3 years in jail or a reduction to Class A misdemeanor, depending upon mitigating and aggravating circumstances. The average expenditure to house an adult offender was \$19,185 in FY 2007. (This does not include the cost of new construction.) If offenders can be housed in existing facilities with no additional staff, the marginal cost for medical care, food, and clothing is approximately \$1,825 annually, or \$5 daily, per prisoner. The average length of stay in Department of Correction (DOC) facilities for Class D felony offenders is approximately ten months.

*Adoption of Rules/Ordinances/Resolutions & Written Reports:* The bill allows an agency to adopt rules and a political subdivision to adopt an ordinance or a resolution to carry out the requirements of the bill. In addition, the bill requires each agency that administers a program that provides federal, state, or local benefits to provide an annual written report with respect to the agency's or political subdivision's compliance under the bill.

*Background Information:* Indiana Code currently specifies that illegal immigrants are not eligible for

Temporary Assistance for Needy Families (TANF), Medicaid, and unemployment insurance. This bill would encompass the remaining state and local benefits that do not receive any federal funding. The bill could potentially reduce the number of persons in the state who are eligible for federal, state, or local benefits. This could result in savings for the state or allow the state to redirect the funds to other persons needing services within a program for which services were not provided under the bill. Actual savings for the state would depend on the number of persons no longer eligible for services and the type and cost of services that they would otherwise receive. [Note: Some of these programs may be reimbursable by the federal government. Should the state not reallocate the funds to other persons within a program for services, the state could potentially reduce its overall federal funding.]

Currently, the Division of Family Resources (DFR) requires a declaration of citizenship/immigration status during the application process for public benefits. Individuals undergo an interview with program administrators to determine legal status of the applicant. Applicants are required to sign an Application for Assistance Client Certification form that certifies under penalty of perjury that all information about citizenship status is complete and accurate to the best of the applicant's knowledge. Any inability or unwillingness to complete the application results in the individual being considered an undocumented immigrant for public benefits. DFR does not report these individuals to U.S. Citizenship and Immigration Services (USCIS) unless USCIS has established that the immigrant is unlawfully in the U.S. SAVE verification is currently used, but not required, and does not constitute a determination as to an individual's unlawful status. Refusal to sign the declaration of lawful presence will result in ineligibility for public benefits.

DFR is currently working on an eligibility modernization program that changes how individuals access welfare benefits. This project is scheduled for completion on July 1, 2008. This project is an IBM-led coalition that will change data collection for the determination of eligibility for public benefits, including authorized presence in the U.S. IBM uses the SAVE program to confirm authorized presence of those applying for public benefits. Funds for this program have already been allocated.

The SAVE program is administered by the USCIS, which is an agency housed in the U.S. Department of Homeland Security. Fees are charged to entities that request verification with the SAVE program. A minimum monthly service fee of \$25 is automatically billed to user agencies whose request volume does not equal or exceed \$25 that month. This amount will equal a minimum expense of \$300 a year for SAVE verification for each user agency. Under the bill the SAVE verification would take place as a requirement to receive public benefits, not as a requirement for continued benefits.

**Explanation of State Revenues:** *Penalty Provision:* If additional court cases occur and fines are collected, revenue to both the Common School Fund and the state General Fund would increase. The maximum fine for a Class D felony is \$10,000. Criminal fines are deposited in the Common School Fund, whereas court cost fees are deposited into the state General Fund.

If the case is filed in a circuit, superior, or county court, 70% of the \$120 criminal costs fee that is assessed and collected when a guilty verdict is entered would be deposited in the state General Fund. If the case is filed in a city or town court, 55% of the fee would be deposited in the state General Fund. In addition, some or all of the judicial salaries fee (\$17), the public defense administration fee (\$3), the court administration fee (\$3), the judicial insurance adjustment fee (\$1), and the DNA sample processing fee (\$1) are deposited into the state General Fund.

**Explanation of Local Expenditures:** This bill will increase the expenditures of local governments and local

government agencies that would be required to utilize the SAVE program to verify legal presence of benefit applicants that identify as legal nonresidents. Expenditures will increase to the extent that the SAVE program was not utilized before to verify legal resident status. The ability of local political subdivisions to utilize the SAVE program as well as the funding status of each political subdivision that provides public benefits is indeterminable.

*Penalty Provision:* If more defendants are detained in county jails prior to their court hearings, local expenditures for jail operations may increase. However, any additional expenditures would likely be small. The average daily cost to incarcerate a prisoner in a county jail is approximately \$44.

**Explanation of Local Revenues:** *Penalty Provision:* If additional court actions occur and a guilty verdict is entered for Medicaid and Welfare fraud, local governments would receive revenue from court fees. However, any change in revenue would likely be small.

Local governments would receive revenue from the following sources: The county general fund would receive 27% of the \$120 criminal costs fee that is assessed in a court of record. Cities and towns maintaining a law enforcement agency that prosecutes at least 50% of its ordinance violations in a court of record may receive 3% of court fees. If the case is filed in a city or town court, 20% of the court fee would be deposited in the county general fund and 25% would be deposited in the city or town general fund. In addition, several additional fees may be collected at the discretion of the judge and depending upon the particular type of criminal case.

**State Agencies Affected:** Division of Family Resources, Family and Social Services Administration.

**Local Agencies Affected:** Trial courts; local law enforcement agencies; local political subdivisions that administer public benefits.

**Information Sources:** Indiana Sheriffs' Association, DOC, PEW Hispanic Center, U.S. Citizenship and Immigration Services, U.S. Census Bureau, U.S. Department of Homeland Security; Jim Dunn, FSSA.

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